

In re Patent Application of:
ROBERT M. HERRIN
Serial No. **10/721,962**
Filing Date: **11/25/2003**

Remarks

Applicant and the undersigned would like to thank the Examiner for his efforts in the examination of this application and for the guidance provided in the Telephone Interview of August 23, 2005. Claims 1-19 remain in the case.

Claims 1-6, 8, 10, 11-16, 18, and 19 were rejected under 35 USC §102(b) as being anticipated by US Patent No. 5,971,906 to Tharpe, Jr et al. Claims 7,9, and 17 were rejected under 35 USC §103(a) as being obvious based on the teachings of the Tharpe '906 reference in view of official notice taken by the Examiner regarding features presented in these dependent claims.

Respectfully, and as presented in the Response to Office Action of February 1, 2005, the Applicant and the undersigned traverse the rejection under 35 USC §102(b) as being improper for failing to contain every element and limitation recited in the claims. With regard to independent Claim 1, all elements of the claim are not disclosed in the Tharpe '906 reference.

Independent Claim 1, as originally presented, calls for a forming rail positioned downstream the first position for receiving the blank moving thereby and folding portions thereof, wherein a proximal portion of the forming rail partially folds peripheral portions of the blank and a distal portion of the forming rail secures the blank into a partially formed tray and a first folding arm movably positioned for biasing against an extended portion of the partially formed tray for a folding thereof.

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The Examiner interprets the forming rails (guide arm (218) of Tharpe '906) as teaching the first folding arm (120) of the claimed invention. As taught by Tharpe '906, Col 6, Lines 53-56 and Line 64 to Col 7, Line 4, and FIG. 11, the guide arms (218) are described as including the four minor side panel elements (226), the opposing front and rear guide elements (228), and the major side panel guide elements (230). Tharpe '906 discloses these guide arm elements as being fixed for cooperating with the platen (212). The first folding arm (120) of the claimed invention is movable. In addition, and supported by the specification as originally filed, the first folding arm is positioned proximate and downstream the distal portion of the forming rail (reference made to Paragraphs 29, 36, and FIGS. 3 and 4, by way of example). This limitation is added to amended claim 1 for more clearly identifying the invention as claimed. In addition, emphasis is added to Paragraph 29 as amended to more clearly point out the feature. Therefore, in a careful reading of the specification and claims for the present invention, one could not maintain that the forming rails (218) of Tharpe '906 are simply the first folding arm (120) of the claimed invention, since one element cannot be downstream of itself. Claims 2-19 depend directly or indirectly from independent Claim 1 and adding more features or limitations, and are thus also felt to distinguish over the cited reference.

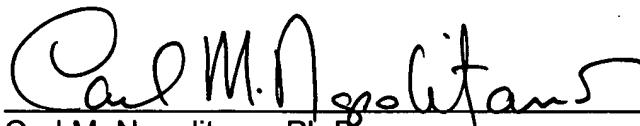
Further, the claimed invention provides a different end product than that of Tharpe' 906. By way of illustration, compare the single glued wall construction in

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Tharpe FIG. 3 with the double-glued wall construction illustrated with reference to FIG. 19 of the instant application.

Applicant respectfully submits that the above amendments and remarks place this application in a condition for allowance, and passage to issue is respectfully solicited. The Applicant and the undersigned would like to again thank the Examiner for his efforts in the examination of this application and for consideration of the claims in light of the arguments presented. If the further prosecution of the application can be facilitated through telephone interview between the Examiner and the undersigned, the Examiner is requested to telephone the undersigned at the Examiner's convenience.

Respectfully submitted,



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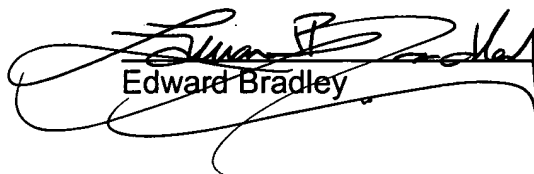
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CERTIFICATE OF MAILING

I hereby certify that the foregoing is being deposited with the United States Postal Service as first class mail in an envelope addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, this 24th day of August, 2005.


Edward Bradley

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In the Drawings:

Please replace informal drawing sheet 6/10 with the attached drawings sheet 6/10 marked as REPLACEMENT SHEET. FIG. 10 is amended to properly identify the compression plate using the indicator line for numeral 122. In addition, elements called out as numerals 128, 244, 124, and 245 have been added to the drawing of FIG. 10. No new matter is added by this amendment.